

EXHIBIT 1

9-14-16
2:40 SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

FORD MOTOR COMPANY, CARMAX AUTO SUPERSTORES CALIFORNIA, LLC, CARMAX AUTO SUPERSTORES WEST COAST, INC. and DOES 1 - 30, Inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

FIRST AMERICAN SPECIALTY INSURANCE COMPANY

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**ENDORSED
FILED
ALAMEDA COUNTY**

AUG 30 2016

CLERK OF THE SUPERIOR COURT

By

Jamie Thomas
JAMIE THOMAS, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

**ALAMEDA COUNTY SUPERIOR COURT
1225 Fallon Street
Oakland, CA 94612**

CASE NUMBER (Número del caso)
RG16829704

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

**EDWARD W. HESS, JR., ESQ. LAW OFFICES OF EDWARD W. HESS, JR.
601 N. PARKCENTER DR., SUITE 107-108 (714) 508-1400
SANTA ANA, CA 92705**

DATE:
(Fecha)

AUG 30 2016

Chad Finke

Clerk, by
(Secretario)

Jamie Thomas

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify):

Under:

- Ford Motor Company*
- ☐ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)

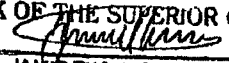
☒ other (specify): *ABFL*

- ☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

ENDORSED
FILED
ALAMEDA COUNTY

AUG 30 2016

CLERK OF THE SUPERIOR COURT
By 
JANICE THOMAS, Deputy

Edward W. Hess, Jr. (SBN: 81902)
LAW OFFICES OF EDWARD W. HESS, JR.
601 North Parkcenter Drive, Suite 107-108
Santa Ana, California 92705
Tel: (714) 508-1400
Fax: (714) 508-1407

Attorney for: Plaintiff First American Specialty Insurance Company

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

FIRST AMERICAN SPECIALTY
INSURANCE COMPANY,

Plaintiff,

vs.

FORD MOTOR COMPANY; CARMAX
AUTO SUPERSTORES CALIFORNIA,
LLC; CARMAX AUTO SUPERSTORES
WEST COAST, INC. and
DOES 1 – 30, Inclusive.,
Defendants.

Case No. **RG16829704**

COMPLAINT FOR DAMAGES
(NEGLIGENCE, STRICT PRODUCTS
LIABILITY)

GENERAL ALLEGATIONS

1. Plaintiff First American Specialty Insurance Company ("FASIC") is now,
and at all times mentioned in this complaint was, a licensed and duly admitted
insurance carrier in the State of California with principal offices and place of business at
Santa Ana, California.

Page 1

COMPLAINT FOR DAMAGES (NEGLIGENCE, STRICT PRODUCTS LIABILITY)

2. Plaintiff is informed and believes and thereon alleges that Defendant Ford Motor Company ("Ford") is now, and at all times mentioned in this Complaint was a corporation organized pursuant to the laws of the State of Delaware and qualified and doing business in, and under the laws of, the State California.

3. Plaintiff is informed and believes and thereon alleges that Defendant Carmax Auto Superstores California, LLC ("Carmax LLC") is now, and at all times mentioned in this Complaint was a corporation organized pursuant to the laws of the State of Virginia and qualified and doing business in, and under the laws of, the State California.

4. Plaintiff is informed and believes and thereon alleges that Defendant Carmax Auto Superstores West Coast, Inc. ("Carmax Inc.") is now, and at all times mentioned in this Complaint was a corporation organized pursuant to the laws of the State of Virginia and qualified and doing business in, and under the laws of, the State California.

5. The names and capacities of Defendants Does 1-30 are unknown to Plaintiff at the time of the filing of this complaint. Plaintiff will move to amend this complaint to show the true names and capacities of Defendants sued as "Doe" once the same are ascertained. Plaintiff is informed and believes and thereon alleges that each of the Defendants including the defendants sued herein as "Doe" was, at all times relevant, the agent, servant, partner or joint venturer of each of the other defendants and was acting within the course and scope of such agency and employment or in furtherance of the business of such joint venture or partnership and with the permission and consent, express or implied of each other Defendants.

6. At all times mentioned in this complaint, Defendant Ford and Does 1 – 10, were engaged in the business of designing, manufacturing, constructing and assembling motor vehicles and related component parts thereof all for ultimate sale and distribution to members of the general public.

1 7. At all times mentioned in this complaint Defendant Ford and Does 11 –
2 21 were engaged in the business of marketing, distributing and selling motor vehicles
3 and related component parts either directly or through the avenues of commerce to
4 members of the general public.

5 6. At all times mentioned in the Complaint Defendant Does 22 – 30 were
6 engaged in the business of repairing motor vehicles and related component parts.

7 FIRST CAUSE OF ACTION - NEGLIGENCE

8 7 Plaintiff refers to each and every allegation contained in paragraphs 1 – 6
9 above, and incorporates the same by reference as though fully set forth hereat.

10 8 On or about April 29, 2014, FASIC insured the residential property
11 located at 37933 Essanay Place Fremont, California ("the insured property"). The
12 insured property was then owned by Anthony Santos ("Plaintiff's insured"). One of the
13 risks insured was damage or loss caused by fire.

14 9 Sometime prior to April 29, 2014, Defendants Ford and Does 1-21,
15 inclusive designed, manufactured, constructed, assembled, marketed, distributed,
16 manufactured and repaired motor vehicles and component parts thereof with
17 knowledge that such would be in some manner or by some means, in the ordinary
18 course of commerce, acquired by members of the general public. One such motor
19 vehicle was a 2002 Ford F-150 motor vehicle identified by vehicle identification number
20 1FTRW07682KE25148 ("the 2002 Ford F150"), which on April 29, 2014 was owned by
21 Plaintiff's insured and parked on the insured property.

22 10. Defendants Ford and Does 1-21 so negligently and carelessly designed,
23 manufactured, constructed, assembled, distributed and sold, the 2002 Ford F150 such
24 that it was dangerous and unsafe for its ordinary and intended use.

25
26 //

11. Plaintiff is informed and believes and thereon alleges that In or about 2008 Plaintiff's insured purchased the 2002 Ford F-150 as a used vehicle from Defendants Carmax LLC, Carmax Inc and Does 11-21. At the time of such purchase Defendants Carmax LLC, Carmax Inc and Does 11-21 negligently careless and recklessly failed to advise and warn Plaintiff's insured that the 2002 Ford F-150 had been the subject of a safety recall related to a component of such vehicle commonly known and referred to as a speed control deactivation switch("SCDS") and that deactivation, repair or replacement of the SCDS pursuant to such recall had not been performed. The SCDS on the 2002 Ford F-150 , and well as the same such device on other Ford vehicles, was recalled because such devices were known to be prone to failure, without warning, causing a fire.

12. Plaintiff is further informed and believes and thereon alleges that in inducing Plaintiff's insured to purchase the 2002 Ford F-150 Defendants Carmax LLC, Carmax Inc and Does 11-21 not only failed to warn and advise Plaintiff's insured that the 2002 Ford F-150 had been recalled and that necessary deactivation, repair or replacement of the SCDS pursuant to such recall had not been performed but also negligently, carelessly, recklessly and falsely represented, both implicitly and explicitly, that the 2002 Ford F-150 had been thoroughly inspected and was safe and free from defect.

13. As a direct and proximate result of Defendants negligence aforesaid Plaintiff's insured purchased the 2002 Ford F-150 and thereafter owned and operated the vehicle without knowledge that it was defective. On April 29, 2014 the SCDS on the 2002 Ford F-150 failed causing a fire which spread to the insured property causing damage thereto.

1 14. As a consequence of the damage to the insured property Plaintiff became
2 obligated and has discharged its obligation by payment to or on behalf of Plaintiff's
3 insured in the total amount of not less than \$ 267,000 or such other amount as may be
4 shown according to proof at the time of trial.

5 SECOND CAUSE OF ACTION – STRICT PRODUCTS LIABILITY

6 15. Plaintiff refers to each and every allegation contained in paragraphs 1 –
7 14 above, and incorporates the same by reference as though fully set forth hereat.

8 16. At all times mentioned in this complaint, the 2002 Ford F-150 was
9 defective and dangerous in its design, manufacture, and warnings, so as to be unsafe
10 for its intended use.

11 17 As a direct and proximate result of the defective and dangerous condition
12 of the 2002 Ford F150, it failed resulting in the fire causing damage and loss as
13 previously alleged

14 WHEREFORE PLAINTIFF PRAYS FOR JUDGMENT AGAINST DEFENDANTS
15 AS FOLLOWS:

16 1. Special damages in the amount of \$ 267,000. or such other amount as
17 will be shown according to proof at the time of trial.

18 2. 2. Prejudgment interest according to law on the principal amount of
19 \$ 267,000 or such other principal amount as may be shown according to proof from
20 April 24, 2014 until entry of judgment herein;

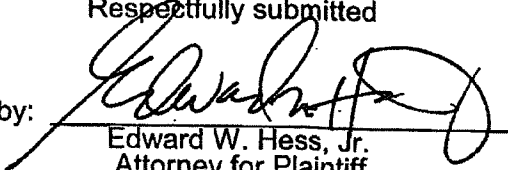
21 3. Costs of suit and;

22 4. Such other and further relief as is just in the premises.
23

24 Dated: February 12, 2015

Respectfully submitted

25
26 by:


Edward W. Hess, Jr.
Attorney for Plaintiff

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28 Page 5
29

COMPLAINT FOR DAMAGES (NEGLIGENCE, STRICT PRODUCTS LIABILITY)

Law Offices of Edward W Hess, Jr.
Attn: Hess Jr., Edward W
601 North Parkcenter Drive
Suite 107-108
Santa Ana, CA 92705

Superior Court of California, County of Alameda

First American Specialty Insurance Co
Plaintiff/Petitioner(s)
VS.
Ford Motor Company
Defendant/Respondent(s)
(Abbreviated Title)

No. RG16829704

**NOTICE OF CASE MANAGEMENT
CONFERENCE AND ORDER**
Unlimited Jurisdiction

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

Notice is given that a Case Management Conference has been scheduled as follows:

Date: 01/12/2017 Time: 03:00 PM	Department: 22 Location: Administration Building Fourth Floor 1221 Oak Street, Oakland CA 94612 Internet: www.alameda.courts.ca.gov	Judge: Robert McGuiness Clerk: Monica Martin Clerk telephone: (510) 267-6938 E-mail: Dept.22@alameda.courts.ca.gov Fax: (510) 267-1574
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ORDERS

1. Plaintiff must:

- a. Serve all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (Cal. Rules of Court, 3.110(b)); and
- b. Give notice of this conference to all other parties and file proof of service.

2. Defendant must respond as stated on the summons.

3. All parties who have appeared before the date of the conference must:

- a. Meet and confer, in person or by telephone as required by Cal. Rules of Court, rule 3.724;
- b. File and serve a completed *Case Management Statement* on Form CM-110 at least 15 days before the Case Management Conference (Cal. Rules of Court, rule 3.725); and
- c. Post jury fees as required by Code of Civil Procedure section 631.

4. If you do not follow the orders above, the court may issue an order to show cause why you should not be sanctioned under Cal. Rules of Court, rule 2.30. Sanctions may include monetary sanctions, striking pleadings or dismissal of the action.

5. You are further ordered to appear in person or through your attorney of record at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed. You may be able to appear at Case Management Conferences by telephone. Contact CourtCall, an independent vendor, at least three business days before the scheduled conference. Call 1-888-882-6878, or fax a service request to (888) 882-2946. The vendor charges for this service.

6. You may file *Case Management Conference Statements* by E-Delivery. Submit them directly to the E-Delivery Fax Number (510) 267-5732. No fee is charged for this service. For further information, go to www.alameda.courts.ca.gov/ff.

7. The judge may place a *Tentative Case Management Order* in your case's on-line register of actions before the conference. This order may establish a discovery schedule, set a trial date or refer the case to Alternate Dispute Resolution, such as mediation or arbitration. Check the website of each assigned department for procedures regarding tentative case management orders at www.alameda.courts.ca.gov/dc.

CLERK'S CERTIFICATE OF MAILING

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice of Hearing by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 09/07/2016.

By

Michelle Bank

Digital
Deputy Clerk



**Service of Process
Transmittal**

09/14/2016

CT Log Number 529841646

TO: Chris Dzbanski
Ford Motor Company
1 American Rd, Whq 421-E6
Dearborn, MI 48126-2798

RE: Process Served in California

FOR: Ford Motor Company (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: First American Specialty Insurance Company, Pltf. vs. Ford Motor Company, et al.,
Dfts.

DOCUMENT(S) SERVED: Summons, Complaint, Notice(s), Certificate(s)

COURT/AGENCY: Alameda County - Superior Court - Oakland, CA
Case # RG16829704

NATURE OF ACTION: Property Damage Litigation - Subrogation - 2002 Ford F-150, VIN:
1FTRW07682KE25148

ON WHOM PROCESS WAS SERVED: C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE: By Process Server on 09/14/2016 at 14:40

JURISDICTION SERVED : California

APPEARANCE OR ANSWER DUE: Within 30 days after service (Document(s) may contain additional answer dates)

ATTORNEY(S) / SENDER(S): Edward W. Hess, Jr.
Law Offices of Edward W. Hess, Jr.
601 North Parkcenter Drive
Suite 107-108
Santa Ana, CA 92705
714-508-1400

ACTION ITEMS: CT has retained the current log, Retain Date: 09/15/2016, Expected Purge Date:
09/20/2016

Image SOP

Email Notification, Chris Dzbanski cdzbansk@ford.com

Email Notification, Mary Ann MacKinnon mmackin1@ford.com

SIGNED: C T Corporation System
ADDRESS: 818 West Seventh Street
Los Angeles, CA 90017
TELEPHONE: 213-337-4615